

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1927 Disciplinary Docket No. 3  
Petitioner :  
 : No. 37 DB 2012  
v. :  
 : Attorney Registration No. 200124  
MICHAEL ZACHARY MANDALE, :  
Respondent : (Philadelphia)

ORDER

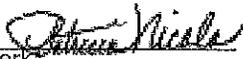
PER CURIAM:

AND NOW, this 19<sup>th</sup> day of June, 2013, upon consideration of the Report and Recommendations of the Disciplinary Board dated March 8, 2013, it is hereby

ORDERED that Michael Zachary Mandale is disbarred from the Bar of this Commonwealth and he shall comply with all the provisions of Rule 217, Pa. R.D.E.

It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa. R.D.E.

A True Copy Patricia Nicola  
As Of 6/19/2013

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 37 DB 2012
Petitioner	:	
	:	
v.	:	Attorney Registration No. 200124
	:	
MICHAEL ZACHARY MANDALE	:	
Respondent	:	(Philadelphia)

REPORT AND RECOMMENDATIONS OF  
THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES  
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania ("Board") herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On March 5, 2012, Office of Disciplinary Counsel filed a Petition for Discipline against Michael Zachary Mandale. The Petition charged Respondent with violations of the Rules of Professional Conduct and Disciplinary Enforcement arising out of his conduct following his administrative suspension from the practice of law in the Commonwealth of Pennsylvania. Respondent did not file an Answer to Petition.

A disciplinary hearing was held on August 15, 2012, before a District I Hearing Committee comprised of Chair Dena Z. Glaeser, Esquire, and Members Kevin F. Berry, Esquire, and Gregory J. Wartman, Esquire. Respondent failed to appear.

Following the submission of a brief by Petitioner, the Hearing Committee filed a Report on January 4, 2013, concluding that Respondent violated the Rules as contained in the Petition for Discipline, and recommending that he be disbarred from the practice of law.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on January 23, 2013.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, Harrisburg, Pennsylvania 17106, is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent is Michael Zachary Mandale. He was born in 1980 and was admitted to practice law in the Commonwealth in 2005. At all times relevant hereto Respondent maintained office addresses at 230 South Broad Street, Suite 400 and 1500

Walnut Street, Suite 700 in Philadelphia. He is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no history of professional discipline.

4. Respondent did not file an Answer to the Petition for Discipline.

5. Pursuant to Pa.R.D.E. 208(b)(3), any factual allegations not timely answered shall be deemed admitted.

6. From at least December 18, 2010 to on or about May 1, 2011, Respondent was in a professional corporation with Kristofer C. Kaufmann, Esquire, advertised as "Mandale Kaufmann, A Professional Law Corporation" located at Broad Street.

7. By Order dated November 18, 2010, the Supreme Court of Pennsylvania transferred Respondent to administrative suspension pursuant to Pa.R.D.E. 219. The effective date of the Order was December 18, 2010.

8. By letter dated November 18, 2010, Suzanne Price, Attorney Registrar, notified Respondent of the Order and the requirements of Pa.R.D.E. 217 via United States first class mail and certified mail, return receipt requested.

9. Respondent received the November 18, 2010 letter with the enclosed order and notice.

10. From December 18, 2010 to present, Respondent has been continuously suspended from the bar of the Commonwealth of Pennsylvania.

11. During the period of suspension, Respondent did not file with the Disciplinary Board Secretary the verified statement of compliance required by Pa.R.D.E. 217(e).

12. On May 27, 2011, the post office notified the Attorney Registrar that Respondent had changed his address to Walnut Street in Philadelphia.

13. Respondent did not notify the Attorney Registrar that he had changed his address.

14. After Respondent was transferred to administrative suspension, he continued to use letterhead that identified him as eligible to practice law in the Commonwealth.

15. After Respondent was transferred to administrative suspension, he failed to remove a wall plaque identifying himself as a member of "Mandale Kaufmann, A Professional Law Corporation."

16. After Respondent was transferred to administrative suspension, he failed to remove a voicemail message identifying him as a member of Mandale Kaufmann.

**Office of Disciplinary Counsel Matter**

17. On December 14, 2009, Respondent executed the 2009-2010 Attorney's Annual Fee Form and identified Commerce Bank (later TD North) as a financial institution in which, from at any time after May 1, 2008, Respondent had held funds of clients or third persons subject to RPC 1.15.

18. On the Fee Form, Respondent verified that he was familiar and in compliance with RPC 1.15.

19. On the Fee Form, Respondent misrepresented the IOLTA as "IOLTA exempt" even though he had not received an exemption from the IOLTA Board.

20. From September 1, 2010 through November 30, 2010, Respondent deposited a total of \$21,945 in IOLTA.

21. From September 1, 2010 through November 30, 2010, Respondent commingled funds in IOLTA and made, *inter alia*, the following distributions from IOLTA to or for his own benefit:

- a. On September 13, 2010, an e-Transfer Debit in the amount of \$2,500;
- b. On September 27, 2010, an e-Transfer Debit in the amount of \$700;
- c. On October 13, 2010, an "electronic web payment" to U.S. Bank N.A.;
- d. On October 21, 2010, check number 114 in the amount of \$3,145.28 payable to 230 South Broad, LP;
- e. On October 26, 2010, a debit in the amount of \$2,500;
- f. On October 26, 2010, check number 116 in the amount of \$400 payable to Mr. and Mrs. Rich Krekstein, which check was executed by Angelica Mandale;
- g. On November 2, 2010, an e-Transfer Debit in the amount of \$485.86;
- h. On November 18, 2010, check number 115 in the amount of \$136.42 payable to the City of Philadelphia.

22. When Respondent issued check number 115, the ledger balance in IOLTA was \$0, which resulted in IOLTA being overdrawn when check number 115 was presented for payment.

23. Kathryn J. Peifer, Executive Director of the Lawyers Funds for Client Security, notified Respondent of the overdraft in IOLTA.

24. During his administrative suspension, Respondent communicated with Ms. Peifer using letterhead that identified him as eligible to practice law in Pennsylvania.

### **The Salerni Matter**

25. On July 13, 2010, Robert J. Salerni contacted Respondent for the purpose of representation in an audit by the Internal Revenue Service ("IRS").

26. On July 16, 2010, Respondent sent Mr. Salerni a "firm engagement letter" ("Agreement") and IRS Form 2848 (Power of Attorney). The Agreement required a retainer of \$2,000 "prior to representing [Mr. Salerni's] interests." The Agreement stated that [Respondent's firm] will bill against this retainer, and when depleted, may request that it be replenished."

27. On July 27, 2010, Mr. Salerni sent Respondent a check in the amount of \$2,000, which check Respondent received and cashed.

28. Respondent did not deposit the retainer in IOLTA.

29. On and after December 18, 2010, Respondent did not notify Mr. Salerni that he had been placed on administrative suspension.

30. On February 14, 2011, Mr. Salerni notified Respondent that the IRS had concluded its audit and asked Respondent to refund the balance of the retainer.

31. On March 1, 2011, Mr. Salerni asked Respondent if he had received his February 14, 2011 message.

32. By letter dated March 1, 2011, sent via Federal Express, Mr. Salerni informed Respondent that he was terminating Respondent's services and requested that Respondent return the full amount of the retainer.

33. Respondent received the letter on March 3, 2011.

34. Respondent failed to respond to Mr. Salerni's communications or refund any portion of the retainer.

**The Weissman Matter**

35. On March 11, 2011, Respondent met with Marc and Michele Weissman at his Broad Street office for a consultation regarding an appeal from an audit assessment by the IRS. The appeal had to be filed on or before May 17, 2011.

36. On May 10, 2011, Mr. Weissman gave Respondent a check payable to Respondent in the amount of \$2,500. The memo portion of the check stated it was "For Legal Services."

37. Respondent cashed the check on May 11, 2011.

38. Respondent did not deposit the check in his IOLTA account.

39. On May 11, 2011, the Weissmans provided Respondent with a signed IRS Form 2848 "Power of Attorney and Declaration of Representative" so that Respondent could represent them before the IRS.

40. Respondent had not regularly represented the Weissmans, yet he did not advise them in writing of the basis or rate of his fee, before the representation or within a reasonable time thereafter.

41. From May 11, 2011 to August 22, 2011, the Weissmans made numerous unsuccessful attempts to contact Respondent.

42. Respondent did not tell the Weissmans that he was administratively suspended from practice in Pennsylvania.

43. Despite telling the Weissmans that he would immediately file an appeal on their behalf and contact the IRS, Respondent failed to do either.

44. Because Respondent did not contact the IRS or timely file an appeal, the Weissmans were prejudiced in their ability to challenge the audit assessments.

45. Respondent failed to communicate with the Weissmans after May 10, 2011.

46. Despite repeated requests by the Weissmans, Respondent failed to return the unearned fee to them.

### The Brint Matter

47. On February 28, 2011, Maritza Brint signed an "Engagement of Legal Services," which was contained on letterhead entitled "Mandale Kaufmann, A Professional Law Corporation."

48. On or about March 4, 2011, Respondent met with Richard and Maritza Brint at the Board Street office regarding the preparation and procurement of an installment agreement with the IRS for federal income tax liabilities their business had incurred in tax year 2010 for a business entity owned by the Brints.

49. During the meeting, Richard Brint gave Respondent a check payable to "Mandale Law Firm" in the amount of \$750.

50. On March 4, 2011, Respondent cashed the check and did not deposit it in his IOLTA account.

51. On March 11, 2011, Respondent sent the Brints an e-mail stating:

Attached please find a copy of our engagement letter as we discussed. Further, as per our discussion, please accept this email as our firm invoice for legal services as per the stated letter in the amount of \$900.00 due upon receipt and payable to "The Mandale Law Firm." Thank you and I look forward to assisting you. Pending receipt of your payment, I will be calling the IRS Monday to finalize what we discussed. Should you have any questions please do not hesitate to contact me, have a nice weekend.

52. In the March 11, email, Respondent identified himself as "Michael Z. Mandale, Esq." and "Michael Z. Mandale, Esquire" and identified the law firm as Mandale Kaufmann, A Professional Corporation."

53. On March 23, 2011, Richard Brint issued to Respondent a check payable to the "Mandale Law Firm" in the amount of \$900. Respondent cashed the check and did not deposit it in his IOLTA account.

54. Respondent failed to inform the Brints that he was administratively suspended from the practice of law in Pennsylvania.

55. From March 24, 2011 to at least September 19, 2011, the Brints made numerous attempts to contact Respondent without success.

56. Despite telling the Brints that he would immediately prepare an installment agreement with the IRS and contact the IRS to procure such agreement, Respondent failed to do so.

57. Despite repeated requests, Respondent failed to return the unearned fees to the Brints.

### **The Roberts Matter**

58. On August 25, 2011, Anthony C. Roberts met with Respondent at his Walnut Street office. Mr. Roberts, who Respondent had previously represented before the IRS, asked Respondent for representation in a pending IRS matter.

59. Respondent failed to inform Mr. Roberts that he was administratively suspended from practice in Pennsylvania.

60. At the August 25, 2011 meeting, Respondent told Mr. Roberts that he required a \$1,500 retainer, which Mr. Roberts paid via three money orders, which Respondent received.

61. By e-mail dated September 23, 2011, Mr. Roberts asked Respondent to forward a Power of Attorney for him to sign and asked him to intervene with the IRS by September 26, 2011.

62. In the September 23, 2011 email, Mr. Roberts also notified Respondent that the payroll department at his place of employment would garnish all but \$368 from his paycheck.

63. By email dated September 26, 2011, Mr. Roberts notified Respondent of the impending wage garnishment and the steps he had taken to fend off the garnishment.

64. On September 29, 2011, Mr. Roberts executed Form 2848 Power of Attorney and forwarded it to the Walnut Street office.

65. By facsimile dated October 7, 2011, Mr. Roberts stated that Respondent had received the Power of Attorney and requested that Respondent contact the payroll department at his employer and stop the wage garnishment.

66. Mr. Roberts sent Respondent a letter dated October 15, 2011, indicating that he had left Respondent multiple messages asking Respondent to intercede with his place of employment to have them stop the wage garnishment, and Respondent had not done so.

67. Despite receiving the retainer from Mr. Roberts, Respondent did not provide any professional services and did not return any of the unearned fees.

68. Mr. Roberts was required to negotiate his own installment agreement with the IRS.

**The Summer Matter**

69. On July 27, 2011, Stephen D. Summer, Leanne Slawnyk, and Joanne McVey met with Respondent and asked him to represent Mr. Summer, his wife Deborah and FHG Companies, LLC in connection with personal tax problems and fiduciary tax problems before the IRS and the Pennsylvania Department of Revenue.

70. On August 1, 2011, Mr. Summer signed an engagement letter, dated July 28, 2011, with Respondent on behalf of himself and his wife and FHG.

71. The engagement letter was on the letterhead of "Mandale Kaufmann, A Professional Corporation" and identified an office address at Walnut Street.

72. The letter memorialized Respondent's meeting with Mr. Summer, Ms. Slawnyk and Ms. McVey and provided for a \$5,000 retainer payment by the Summers and FHG.

73. The letter stated that Respondent would bill against the retainer.

74. Pursuant to the letter, Respondent was to: 1) negotiate with the IRS for an abatement of penalties and interest charged to the Summers and/or FHG from prior tax years; 2) obtain an Installment Agreement with the IRS; and 3) represent the Summers and/or FHG in an audit by the Pennsylvania Department of Revenue.

75. Respondent has not been associated with Kristofer Kaufmann, Esquire since April 2011.

76. At no time did Respondent notify the Summers, Ms. Slawnyk, Ms. McVey or FHG that he had been placed on administrative suspension.

77. Mr. Summer provided Respondent with a retainer check dated August 1, 2011 made payable to Mandale Kaufmann in the amount of \$5,000. Respondent cashed the check on August 3, 2011.

78. The retainer was not earned upon receipt and Respondent failed to deposit the retainer in his IOLTA account.

79. On or about August 3, 2011, Respondent notified David Spock of the Department of Revenue that the Summers and FHG retained him. Respondent asked Mr. Spock to reschedule the audit, which Mr. Spock agreed to do.

80. Since on or about August 3, 2011, Respondent has failed to contact Mr. Spock with regard to the audit.

81. From September 2011 to the present, the Summers and FHG, through Ms. Slawnyk and Ms. McVey, have made numerous unsuccessful attempts to determine the status of Respondent's representation of them.

82. During a telephone conversation on September 23, 2011, Respondent told Ms. Slawnyk that he had prepared a packet for the IRS that set forth a reasonable basis for abatement. At that point Ms. Slawnyk asked Respondent to provide, *inter alia*: 1) the packet that Respondent prepared for submission to the IRS; and 2) a billing statement of the time expended on behalf of the Summers and FHG.

83. Respondent promised to submit these documents via email.

84. From September 29, 2011 to at least December 13, 2011, the Summers and FHG repeatedly asked Respondent for a billing statement. Respondent failed to provide one.

85. By email dated October 6, 2011, Ms. Slawnyk told Respondent that although the Summers and FHG were not terminating their relationship with Respondent, he must cease all labor and services. Ms. Slawnyk asked Respondent to provide the Summers and FHG with the "package" he had promised to provide two weeks earlier before a decision would be made on how to proceed.

86. Respondent advised the Summers and FHG that he had not provided them with the requested documentation because, from August 22, 2011 to October 18, 2011, Respondent:

- a. was in an audit;
- b. was on trial in September 2011 and busy in court;
- c. was heading for a settlement conference;
- d. was shuttling his grandmother to the hospital because his grandfather had emergency heart surgery;
- e. contracted an infection that affected Respondent's kidneys;
- f. was on trial in October 2011; and
- g. needed one more day to provide the information.

87. From October 18, 2011 to at least December 13, 2011, Respondent did not communicate with his clients.

88. As a result of Respondent's failure to represent them, the Summers and FHG were required to retain new counsel for an additional \$2,500 to represent them in the audit by the Department of Revenue and with an abatement of penalty by the IRS.

89. As a result of Respondent's failure to represent his clients, additional penalties and interest accrued.

90. Respondent did not return any unearned fees to the Summers or FHG.

91. Respondent received and failed to provide the required answer to a DB-7 Request for Statement of Respondent's Position in the above clients' matters.

92. Respondent has not accepted responsibility for any of the aforementioned conduct.

93. Respondent has not shown remorse for his acts or omissions.

94. Respondent has not cooperated with Petitioner in that he failed to answer the DB-7 Letters or the Petition for Discipline.

95. Respondent did not appear at the pre-hearing conference or the disciplinary hearing nor did he submit a post-hearing brief.

96. Respondent did not answer inquiries by the Pennsylvania Lawyers Fund for Client Security.

### III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

1. RPC 1.3 - A lawyer shall act with reasonable diligence and promptness in representing a client.

2. RPC 1.4(a)(3) - A lawyer shall keep the client reasonably informed about the status of the matter.

3. RPC 1.4(a)(4) - A lawyer shall promptly comply with reasonable requests for information.

4. RPC 1.4(b) - A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

5. RPC 1.5(b) - When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation.

6. RPC 1.15(b) - A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded.

7. RPC 1.15(e) - A lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding the property.

8. RPC 1.15(b) - A lawyer shall not deposit the lawyer's own funds in a Trust Account except for the sole purpose of paying service charges on that account, and only in an amount necessary for that purpose.

9. RPC 1.15(i) - A lawyer shall deposit into a Trust Account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of fees and expenses in a different manner.

10. RPC 1.16(d) - Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.

11. RPC 5.5(a) - A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

12. RPC 7.1 - A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services.

13. RPC 7.5(a) - A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1.

14. RPC 8.4(c) - A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

15. RPC 8.4(d) - A lawyer shall not engage in conduct that is prejudicial to the administration of justice.

16. Pa.R.D.E. 203(b)(3) – A willful violation of any other provision of the Enforcement Rules is grounds for discipline, via:

a. Pa.R.D.E. 217(b) – A lawyer shall notify his clients of his disbarment, suspension, administrative suspension or transfer to inactive status.

b. Pa.R.D.E 217(c)(1) and (2) – An attorney shall promptly notify of his disbarment, suspension, administrative suspension or transfer to inactive status:

(1) all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, administrative suspension or transfer to inactive status, and

(2) all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing.

c. Pa.R.D.E. 217(d) – A disbarred, suspended, administratively suspended or inactive attorney shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature.

d. Pa.R.D.E. 217(e) – An attorney that is disbarred, suspended, on administrative suspension or transferred to inactive status shall file with the Board a verified statement showing:

(1) that the provisions of the order and these rules have been fully complied with; and

(2) all other state, federal and administrative jurisdictions to which such person is admitted to practice. Such statement shall also set forth the residence or other address of the formerly admitted attorney where communications to such person may thereafter be directed.

e. Pa.R.D.E. 217(j)(1),(2),(4) – An attorney that is disbarred, suspended, on administrative suspension, or transferred to inactive status may not engage in any form of law-related activities in this Commonwealth except in limited circumstances.

17. Pa.R.D.E. 203(b)(7) – It is grounds for discipline for a respondent to fail without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rule §87.7(b) for a statement of the respondent-attorney's position.

IV. DISCUSSION

This matter comes before the Board following the filing of a Petition for Discipline by Office of Disciplinary Counsel. Respondent was charged with multiple violations of the Rules of Professional Conduct and Enforcement Rules arising from six separate matters. Respondent did not respond within the time period required by Pennsylvania Rules of Disciplinary Enforcement 208(b)(3). Accordingly, all factual allegations contained within the Petition are deemed admitted. A disciplinary hearing in this matter was held on August 15, 2012. Respondent failed to appear.

Petitioner has the burden of proving, by a preponderance of the evidence, that Respondent's actions constitute professional misconduct. To meet that burden, Petitioner must come forward with clear and satisfactory evidence. Office of Disciplinary Counsel v. Surrick, 749 A.2d 441 (Pa. 2000) Petitioner has met its burden of proof. The facts are sufficient to establish each of the violations of the Rules.

Respondent was administratively suspended from the practice of law pursuant to a Supreme Court Order dated November 18, 2010, effective December 18, 2010, based upon his failure to file his annual registration statement and to pay the annual license fee. Following his administrative suspension, Respondent continued to represent five clients in tax matters. The record demonstrates that Respondent failed to complete or even initiate contact with the taxing authorities in the matters for which he had been retained by his various clients. He failed to exercise diligence; failed to provide the respective clients with the status of their matters with the IRS; failed to promptly provide a response to reasonable requests for information; failed to provide a client with a written fee agreement; failed to maintain all 1.15 funds separate and apart from his own property;

improperly deposited his own funds in a trust account; and, failed to ever return unearned fees to his clients. He engaged in the unauthorized practice of law in one matter, wherein he contacted the Pennsylvania Department of Revenue on behalf of a client.

Respondent further failed to properly notify each client that he was administratively suspended, thus misrepresenting his ability to engage in the practice of law. His failure to abide by the Supreme Court's Order was prejudicial to the administration of justice. He continuously advertised himself as eligible to practice law through his letterhead, wall plaques at his office, and voicemail messages identifying him as a member of the Mandale Kaufmann law firm.

When Petitioner sought information regarding possible violations of the Rules, Respondent failed to respond to the DB-7 Request for Statement of Respondent's Position in the five client matters. Respondent's failure to Answer the Petition and failure to appear at the pre-hearing conference and disciplinary hearing completed his cycle of non-participation in the serious matter of the status of his professional license.

We now turn to the degree of discipline warranted by Respondent's misconduct. The appropriate disciplinary sanction is based on the nature and gravity of the misconduct and the aggravating and mitigating factors. In re Anonymous No. 85 DB 1997, 44 Pa.D. & C. 4<sup>th</sup> 299 (1999). The Supreme Court of Pennsylvania has held that where an attorney shows a pattern of client neglect and misappropriation of client funds, disbarment may be warranted. Office of Disciplinary Counsel v. Lucarini, 472 A.2d 186 (Pa. 1983).

Respondent's wholesale lack of interest in his license and apparent disregard for the disciplinary system, as exemplified in particular by his failure to appear at the disciplinary hearing, calls into question his fitness to practice law. A respondent's failure to appear at the disciplinary hearing has been determined to constitute an aggravating factor.

In re Anonymous No. 148 DB 94, 34 Pa.D. & C. 4<sup>th</sup> 133 (1996) The only mitigating factor present is Respondent's lack of prior discipline, which is not a compelling factor, considering that Respondent has only been admitted since 2005 and was administratively suspended in 2010.

Respondent's misconduct deserves disbarment. He engaged in a course of deceptive conduct with respect to his clients, prospective clients, and Petitioner. He defied a Supreme Court Order by continuing his legal practice in exactly the same way as before his administrative suspension. He never removed his name from signage and letterhead, thus leading unsuspecting clients to believe he was eligible to practice law. Respondent gained new clients and accepted retainers all the while knowing he was not permitted to do so. He then allowed the cases to languish, but still felt free to keep the unearned fees, thereby misappropriating the funds. Respondent showed no acceptance of responsibility or remorse. His actions embody the antithesis of what the public expects and deserves from an ethical lawyer. Disbarment is appropriate in order to protect the public.

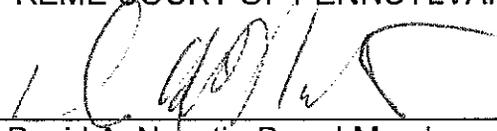
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Michael Zachary Mandale, be Disbarred from the practice of law in this Commonwealth.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

By:   
David A. Nasatir, Board Member

Date: March 8, 2013

Board Members Momjian and Hastie did not participate in the adjudication.